

UNITED STATES DISTRICT COURT

for the
District of New Mexico

FILED
United States District Court
Albuquerque, New Mexico

Mitchell R. Elfers
Clerk of Court

In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)

1634 Vinnie Road SW, Albuquerque, NM 87105 and

Juan Carlo Gutierrez (YOB 1985)

Case No. 23-MR-1059

APPLICATION FOR A WARRANT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachment A, incorporated by reference.

located in the _____ District of _____ New Mexico _____, there is now concealed (identify the person or describe the property to be seized):

See Attachment B, incorporated by reference.

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
- ☒ contraband, fruits of crime, or other items illegally possessed;
- ☒ property designed for use, intended for use, or used in committing a crime;
- ☒ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
18 USC § 922(g)(1)	Felon in Possession of a Firearm and Ammunition
18 USC § 1962	Racketeer Influenced and Corrupt Organizations Act

The application is based on these facts:

See attached affidavit, subkitted by SA Nancy Stemo and approved by AUSA Paul Mysliwiec.

☒ Continued on the attached sheet.

☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.


Applicant's signature

Nancy Stemo, FBI Special Agent

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by

Telephonically Sworn and Electronically Signed (specify reliable electronic means).

Date: May 23, 2023

City and state: Albuquerque, New Mexico


Judge's signature

Karen B. Molzen, United States Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF A SEARCH WARRANT

INTRODUCTION

1. I, Nancy Stemo, being first duly sworn, make this affidavit in support of an application under Rule 41 of the Federal Rules of Criminal Procedure (“FRCP”) for a warrant to search the premises located at 1634 Vinnie Road SW, Albuquerque, NM 87105 (hereinafter referred to as the “Subject Premises”) and the person of Juan Carlo GUTIERREZ, aka “Gotti.” A more detailed description and photographs of the Subject Premises and GUTIERREZ are contained in Attachment A, which has been attached hereto and incorporated herein by reference.

PURPOSE OF THE AFFIDAVIT

2. This affidavit seeks a search warrant to allow the Federal Bureau of Investigation (“FBI”) to enter and search the Subject Premises to search for GUTIERREZ, who is currently wanted by the FBI for being a felon in possession of a firearm. Should GUTIERREZ not be at the Subject Premises when the warrant is served, I am requesting permission to search the premises for evidence of his current whereabouts.

3. This affidavit also seeks authorization for the FBI to obtain a DNA sample from GUTIERREZ via buccal swab, in violation of 18 U.S.C. § 922(g)(1) - prohibited person in possession of a firearm; and authorization to search GUTIERREZ’s person for tattoos demonstrating membership or affiliation with the Sindicato de Nuevo Mexico (“SNM”) and for evidence of membership or affiliation with the SNM within the Subject Premises, in violation of 18 U.S.C. § 1962 - Racketeer Influenced and Corrupt Organizations (“RICO”) Act. I am aware such photographic evidence of gang tattoos has been utilized within the District of New Mexico in trial as a means to show membership or affiliation with the SNM.

AFFIANT’S RELEVANT TRAINING AND EXPERIENCE

4. I am a Special Agent (“SA”) of the FBI and have been since May 2016. I am recognized as a “federal law enforcement officer” within the meaning of FRCP 41(a)(2)(C). I am currently assigned to the Child Exploitation and Human Trafficking Task Force (CEHTTF) and was previously assigned to the Albuquerque Violent Crime Task Force and Safe Streets Task Force. I am one of the case agents in the

government's ongoing RICO Act case against the SNM prison gang, which involved several gang-related homicides, drug trafficking activities, and firearms violations.

5. I am aware the SNM was formed in the wake of the 1980 Santa Fe Prison riot in Santa Fe, New Mexico. Thirty-three inmates were murdered, and fourteen correctional officers were taken hostage, beaten, and sexually assaulted. Following the riot, the SNM expanded throughout the New Mexico penal system and bolstered hundreds of members.

6. Through my training and experience, I know that SNM members identify themselves with Zia symbols and the letters "SNM" or "S," which represent the "Syndicato de Nuevo Mexico" or "Syndicato." SNM members also utilize the numbers "19" which represents the 19th letter of the alphabet, "S," and "505," which corresponds with the area code for the greater Albuquerque area. As with the numbers "19," "505," the letters "S" or "SNM," the Zia symbol, the Peacock bird, and the Spanish word "Syndicato" are commonly, but not exclusively, displayed by SNM Gang members in tattoos, graffiti, drawings, and on clothing, as a way of displaying their affiliation, loyalty, and commitment to the gang. I am aware some SNM gang members agree a woman wearing a broad trimmed hat, known as a "charra," is an SNM gang specific tattoo. I am also aware SNM specific tattoos can only be obtained by SNM gang members and some SNM tattoos bear greater significance than others. For example, a filled in "S" within the Zia symbol may be indicative of the bearer committing a serious violent act on behalf of the gang. I have attached Exhibit A to this affidavit which depicts examples of SNM gang tattoos.

7. I know that SNM members and associates use tattoos to identify themselves as members of, and display their association with, the SNM criminal enterprise. SNM members also wear tattoos that reflect their respective cliques (or street gangs they started in), which include the 14th Street, 18th Street, Westside, Barelas, San Jose, and other New Mexico street gangs. SNM members and associates often have tattoos that reflect their monikers, or nicknames, some of which are secretive and kept from law enforcement. I am aware that SNM members operate under a "blood in, blood out" rule that prohibits them from leaving the gang unless they are assaulted (i.e., "jumped out") or killed.

8. Through my training and experience, I am aware SNM gang members often keep evidence of their gang membership via photographs, documents, drawings, writings, correspondence, or other objects that depict gang member names, logos, monikers, and symbols. These are often secreted in their residences and vehicles. The symbols utilized on other items, such as drawings or clothing, often mirror the symbols utilized in tattoos.

9. The SNM, including its leadership, membership, prospects, and associates constitutes an enterprise as defined in 18 U.S.C. § 1961(4). The enterprise constitutes an ongoing organization whose members and associates function as a continuing unit for a common purpose of achieving the objectives of the enterprise.

10. The statements in this affidavit are based on information obtained from the Bernalillo County Sheriff's Office ("BCSO"), the New Mexico Corrections Department ("NMCD"), a review of law enforcement or court records, information I have received from other agents and law enforcement personnel about their experience, training, and background; and my experience, training, and background. Because this affidavit is being submitted for the limited purpose of securing a search warrant, I have not included each and every fact known to me concerning this investigation.

FACTS AND CIRCUMSTANCES ESTABLISHING PROBABLE CAUSE

11. The FBI Albuquerque Division has been engaged in a multiyear investigation of the ultraviolent SNM gang. To date, dozens of SNM members and associates have been charged and convicted of federal violations in the District of New Mexico, to include RICO Conspiracy, Violent Crimes in Aid of Racketeering ("VICAR") assault and murder, prohibited person in possession of a firearm and ammunition, witness tampering, and drug trafficking offenses. The current investigation into the SNM began in March 2015 when the FBI learned of an SNM conspiracy involving SNM leaders Anthony Ray BACA, aka "Pup;" Robert MARTINEZ, aka "Baby Rob;" and Roy MARTINEZ, aka "Shadow" calling for the murder of the NMCD Secretary of Corrections and two high level NMCD supervisors in the NMCD Security Threat Intelligence Unit ("STIU"). Both Robert and Roy MARTINEZ wrote letters to SNM members ordering them to assist in the plot. One of the intended recipients of the letters was "Gotti." The letters were

intercepted by STIU and were not mailed to the intended recipients. BACA later communicated with another SNM member, Chris GARCIA, aka "Nervioso," and directed him to obtain firearms and murder the NMCD officials or their families. GARCIA recruited two SNM members to assist. The plot was ultimately foiled by the FBI.

12. NMCD officials identified "Gotti," as Juan Carlo Daniel GUTIERREZ. According to NMCD records, GUTIERREZ is a validated member of the SNM gang. GUTIERREZ has served prison time in NMCD facilities and was not in NMCD custody when the letters ordering the murder were supposed to be mailed out.

13. On May 11, 2023, BCSO Deputy A. Young responded to a domestic violence call for service at the Subject Premises. The calling party, JANE DOE, reported actively being battered by a male, later identified as GUTIERREZ. JANE DOE reported GUTIERREZ held JANE DOE down, poured alcohol down JANE DOE's mouth in an attempt to drown her, punched JANE DOE's face, pulled JANE DOE's hair out, and prevented JANE DOE from leaving the residence. JANE DOE also reported GUTIERREZ had a firearm in the residence. JANE DOE was previously in a serious relationship with GUTIERREZ and was presently in an off and on relationship with him. JANE DOE moved out of the residence several months prior and was no longer residing there. JANE DOE was aware GUTIERREZ continued to reside at the Subject Premises.

14. JANE DOE reported the firearm was not utilized during the altercation but was aware GUTIERREZ owned the firearm. JANE DOE was aware GUTIERREZ was not supposed to possess firearms due to being a prohibited possessor. JANE DOE retrieved the firearm without prompting from law enforcement and showed it to Deputy Young. The firearm was in a bedroom that was located just inside the front door of the residence and was next to the bed. Deputy Young did not handle the firearm but noted it appeared to be a black pump action shotgun, two to four feet in length. Deputy Young observed multiple shotgun shells in the area where JANE DOE retrieved the shotgun from. JANE DOE reported GUTIERREZ had the shotgun for a while. JANE DOE left the shotgun on the bed.

15. On May 12, 2023, Deputy Young obtained a search warrant for the Subject Premises. The residence had been secured by BCSO while the search warrant was obtained. BCSO seized a Remington 870 pump action shotgun, serial number RS59396B, and nine shotgun shells of various loads, from inside the Subject Premises. GUTIERREZ was subsequently charged with being a felon in possession of a firearm, docket T-4-FR-2023-2690.

16. Through my training and experience, I believe the Remington shotgun traveled in interstate or foreign commerce. To my knowledge, Remington does not have any manufacturing of firearms in the State of New Mexico.

17. GUTIERREZ has several felony convictions in the State of New Mexico, including Possession of a Firearm or Destructive Device by a Felon in San Miguel County, docket D-412-CR-2012-00099; Conspiracy to Trafficking a Controlled Substance, to wit: Crack Cocaine in San Miguel County, docket D-412-CR-2004-00204; Attempt to Commit Possession of a Deadly Weapon by a Prisoner in San Miguel County, docket D-412-CR-2005-00242; Bribe/Intimidate/Retaliate on a Witness in San Miguel County, docket D-412-CR-2005-00066; and Possession of a Controlled Substance, to Wit: Crack Cocaine in San Miguel County, docket D-412-CR-2008-00297.

18. GUTIERREZ was released from the Metropolitan Detention Center in Albuquerque on May 13, 2023. GUTIERREZ listed the Subject Premises as his address in his release paperwork. GUTIERREZ also listed the Subject Premises on his driver's license. JANE DOE indicated the Subject Premises was GUTIERREZ's residence and he was arrested by BCSO there on May 11, 2023. A review of Bernalillo County assessor records showed GUTIERREZ was the listed owner for the Subject Premises.

19. On May 23, 2023, United States Magistrate Judge Karen B. Molzen authorized a criminal complaint and arrest warrant charging GUTIERREZ with being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1).

20. FBI Special Agents will attempt to arrest GUTIERREZ at the Subject Premises. Should GUTIERREZ not be at the Subject Premises when the warrant is served, I request that agents be permitted to conduct a search of the premises for items that may document, record or depict GUTIERREZ's current

whereabouts. My training and experience indicate persons often leave evidence of their daily schedules, activities, travel patterns, appointments, planned outings, meetings, and social or business interactions in the normal course of living within their premises. Furthermore, personal calendars, appointment books, telephone books, address books, notes, notebooks, mail, photographs, phone messages, credit card receipts, statements, bank receipts and statements, telephone statements, hotel or motel receipts, room keys, business cards, travel itinerary, restaurant receipts, airplane tickets and/or other notations pertaining to the GUTIERREZ's current location may aid agents in locating and arresting GUTIERREZ.

21. Through my training and experience, I am aware forensic evidence may remain on, or within items, for years after an event. It is my understanding that significant contact between an object and a handler may result in DNA transfer. The firearm obtained from the Subject Premises will be submitted for DNA analysis and will be compared to the DNA sample obtained from GUTIERREZ to determine if DNA obtained from the firearm contains GUTIERREZ's DNA.

22. Based on my training and experience regarding the SNM, I believe GUTIERREZ may possess indicia of SNM gang membership or affiliation within his residence or on his body. I am aware that SNM gang members have distinct tattoos that represent their dedication to the SNM criminal enterprise and distinguish themselves among other gang members and inmates. The members display these tattoos to gain respect within the enterprise and to intimidate non-members. The SNM has a reputation among other gangs as being extremely violent and "down" to assault or kill on a moment's notice. As such, members of the SNM are able to display their affiliation with the gang as a means of protection. I am also aware, gang members sometimes attempt to conceal their gang ties, and may exercise their constitutional rights to refrain from speaking with law enforcement agents. In an effort to discern and document, GUTIERREZ's gang affiliation, I am requesting the ability search for and photograph GUTIERREZ above the waist and below the thighs, for tattoos.

THE SUBJECT PREMISES

23. The Subject Premises is located at 1634 Vinnie Road SW, Albuquerque, New Mexico and may be described as a single family double wide trailer that is light tan in color. There is a wooden fence in

the front of the residence. The numbers “1634” are posted on the western side of the trailer, next to a security camera; and on a metal fence post next to a vehicle gate. The name GUTIERREZ is visible on the white mailbox, which is in front of the Subject Premises. Color photograph of the Subject Premises has been included in Attachment A. The search of the Subject Premises shall include the entire residence and all outbuildings, trash cans, storage containers, and vehicles parked at, or in front of, the Subject Premises.¹

CONCLUSION

24. Based on the aforementioned information, I submit that probable cause exists to search the Subject Premises, further described in Attachment A, for GUTIERREZ or evidence of his current whereabouts, a DNA sample via buccal swab from GUTIERREZ, and evidence of SNM gang membership or affiliation within the Subject Premises or on GUTIERREZ’s person, further identified and described in Attachment A. This affidavit has been reviewed by AUSAs Paul Mysliwiec of the District of New Mexico.

Respectfully submitted,



Nancy Stemo
Special Agent
Federal Bureau of Investigation

Electronically Submitted and Telephonically Sworn on May 23, 2023:



HONORABLE KAREN B. MOLLEN
UNITED STATES MAGISTRATE JUDGE
DISTRICT OF NEW MEXICO

¹ Only vehicles parked at the Subject Premises or in front of the Subject Premises and having an apparent connection to the Subject Premises will be searched. Connection to the Subject Premises may be established by way of prior law enforcement observation, vehicle registration, subject admission or possession of an ignition key.

ATTACHMENT A

1. The Subject Premises is located at 1634 Vinnie Road SW, Albuquerque, New Mexico and may be described as a single family double wide trailer that is light tan in color. There is a wooden fence in the front of the residence. The numbers “1634” are posted on the western side of the trailer, next to a security camera; and on a metal fence post next to a vehicle gate. The name GUTIERREZ is visible on the white mailbox, which is in front of the Subject Premises. Color photograph of the Subject Premises has been included in Attachment A. The search of the Subject Premises shall include the entire residence and all outbuildings, trash cans, storage containers, and vehicles parked at, or in front of, the Subject Premises.²



2. Juan Carlo GUTIERREZ, aka “Gotti,” who appears in the photograph below.

GUTIERREZ will be searched for tattoos evidencing membership in or association with the SNM gang.



² Only vehicles parked at the Subject Premises or in front of the Subject Premises and having an apparent connection to the Subject Premises will be searched. Connection to the Subject Premises may be established by way of prior law enforcement observation, vehicle registration, subject admission or possession of an ignition key.

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ATTACHMENT B

1. The FBI will search for Juan Carlo GUTIERREZ, DOB 8/30/1985, whose photo appears in Attachment A, and who is a person to be arrested pursuant to a federal arrest warrant.

2. Should GUTIERREZ not be at the Subject Premises when the warrant is served, the FBI will search for items that may document, record, or depict GUTIERREZ's current whereabouts; including, evidence of his schedule, activities, travel patterns, appointments, planned outings, meetings, and social or business interactions in the normal course of living within their premises, personal calendars, appointment books, telephone books, address books, notes, notebooks, mail, photographs, phone messages, credit card receipts, statements, bank receipts and statements, telephone statements, hotel or motel receipts, room keys, business cards, travel itinerary, restaurant receipts, airplane tickets and/or other notations pertaining to the GUTIERREZ's current location.

3. A DNA sample, via buccal swab, from GUTIERREZ.

4. Evidence of membership or affiliation with the Sindicato de Nuevo Mexico (SNM), to include any documents, photographs, drawings, writings, or objects depicting gang members names, initials, logos, monikers, slogans, or any item depicting potential gang membership, affiliation, activity or identity.

YCBm

Exhibit A – SNM Tattoo Examples



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